

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION**

FILED
8/3/2018 12:29 PM
DOROTHY BROWN
CIRCUIT CLERK
COOK COUNTY, IL
2018L008373

LYLE RAINEY,)
)
)
Plaintiff,)
)
v.)
) No.
WAL-MART STORES, INC. d/b/a)
SAM'S CLUB,)
)
Defendant.)

COMPLAINT AT LAW

NOW COMES the Plaintiff, LYLE RAINEY, by and through his attorneys TAXMAN, POLLOCK, MURRAY & BEKKERMAN, LLC, and complaining of Defendant, WAL-MART STORES, INC. d/b/a SAM'S CLUB, states:

Count I
Negligence

1. On and before July 5, 2016, Defendant, WAL-MART STORES, INC. d/b/a SAM'S CLUB was a Delaware Corporation licensed to do business in Illinois with its registered agent located at 208 South LaSalle Street, Suite 814, Chicago, Illinois
2. On and before July 5, 2016, Defendant WAL-MART STORES, INC. d/b/a SAM'S CLUB owned, managed, maintained, controlled, and operated retail stores, including a location at 16100 Harlem Avenue, in the Village of Tinley Park, County of Cook, and State of Illinois.
3. On or about July 5, 2016 Plaintiff LYLE RAINEY was lawfully upon the premises at 16100 Harlem Avenue as an invitee of Defendant WAL-MART STORES, INC. d/b/a SAM'S CLUB.

FILED DATE: 8/3/2018 12:29 PM 2018L008373

4. At that time and place, Plaintiff LYLE RAINEY, was in the location at 16100 Harlem Avenue shopping for a grill.
5. At that same time and place, WAL-MART STORES, INC. d/b/a SAM'S CLUB was selling a Member's Mark brand grill, which had two lids that closed inwards and opened outwards.
6. At that same time and place, WAL-MART STORES, INC. d/b/a SAM'S CLUB had placed a Member's Mark brand grill on display on its sale floor for customers to view and inspect (the "Grill").
7. At that same time and place, at least one of the two lids of the Grill was lacking one or more properly tightened screws, thereby creating a dangerous and hazardous condition and was created and/or permitted to exist by agents, apparent agents, employees, and/or servants of Defendant WAL-MART STORES, INC. d/b/a SAM'S CLUB.
8. The Defendant knew or should have reasonably expected that customers would not discover the condition.
9. At that time and place, Defendant WAL-MART STORES, INC. d/b/a SAM'S CLUB had a duty to exercise ordinary care in the possession, ownership, maintenance, and control of the aforesaid premises for the safety of those persons lawfully thereon, including Plaintiff LYLE RAINEY.
10. At the aforesaid time and place, Defendant WAL-MART STORES, INC. d/b/a SAM'S CLUB breached its duty of care and was then and there guilty of one or more of the following careless and negligent acts and/or omissions:

- a. Carelessly and negligently managed, maintained, controlled, and operated said premises such that as a direct and proximate result thereof Plaintiff was injured; and/or
- b. Carelessly and negligently owned, operated, managed, maintained, assembled or controlled the Grill, such that as a direct and proximate result thereof, the Plaintiff was injured; and/or
- c. Carelessly and negligently failed to implement and enforce proper policies and procedures regarding the assembly and maintenance of equipment on the sales floor; and/or
- d. Carelessly and negligently failed to warn Plaintiff of the dangerous condition then and there existing on the premises, when the Defendant knew, or in the exercise of ordinary care should have known, that said warning was necessary to prevent injury to Plaintiff; and/or
- e. Failed to make a reasonable inspection of the premises when the Defendant knew, or in the exercise of ordinary care should have known, that said inspection was necessary to prevent injury to Plaintiff; and/or
- f. Failed to properly tighten a screw or screws located on the lids of the Grill, despite the fact that Defendant knew, or in the exercise of ordinary care should have known, that said failure was likely to result in injury to persons inspecting the Grill, including Plaintiff; and/or
- g. Failed to ensure safe, suitable, and proper conditions on the sale floor of the premises; and/or

FILED DATE: 8/3/2018 12:29 PM 2018L008373

- h. Allowed and permitted the Grill to remain improperly assembled despite the fact that the Defendant knew or should have known that its customers would physically inspect the Grill; and/or
 - i. Improperly assembled the Grill and failed to remedy the improper assembly when Defendant knew or should have known that the improper assembly was dangerous to its invitees, including the plaintiff; and/or
 - j. Was otherwise negligent and careless.
- 11. At the same time and place, Plaintiff LYLE RAINEY attempted to open the Grill by pulling the lid up and as he did so, the lid fell, as it lacked a properly tightened screw, thereby actually and proximately causing Plaintiff LYLE RAINEY to suffer severe and permanent injury.
- 12. As a direct and proximate result of one or more of the aforesaid careless and negligent acts and/or omissions of Defendant WAL-MART STORES, INC. d/b/a SAM'S CLUB, Plaintiff LYLE RAINEY sustained severe and permanent injuries, both externally and internally, and was, and will be, hindered and prevented from attending to his usual duties and affairs and has lost, and will be in the future lose, the value of that time. Plaintiff also suffered great pain and anguish; both in mind and body, and will in the future continue to suffer. Plaintiff further expended and became liable for, and will expend and become liable for, large sums of money and for medical care and services endeavoring to become healed and cured of said injuries.

WHEREFORE Plaintiff LYLE RAINEY, demands judgment against Defendant WAL-MART STORES, INC. d/b/a SAM'S CLUB in a sum in excess of FIFTY THOUSAND AND 00/100 DOLLARS (\$50,000.00) and for such further relief as this Court deems just and necessary.

Count II
Res Ipsa Loquitur

13. Plaintiff hereby adopts and re-alleges paragraphs 1-12 as through fully set forth herein.
14. At all relevant times, the Grill was in the exclusive control of the Defendant and its agents, apparent agents, employees, and/or servants.
15. In the normal course of events, the grill lid would not fall loose and the resulting injuries and damages to Plaintiff would not occur if the Defendant and its agents, apparent agents, employees, and/or servants had used ordinary care while the Grill was under its control.
16. The injuries suffered by Plaintiff due to the Grill were not due to any voluntary act of negligence or any other voluntary act on the part of the Plaintiff.

WHEREFORE Plaintiff LYLE RAINEY, demands judgment against Defendant WAL-MART STORES, INC. d/b/a SAM'S CLUB in a sum in excess of FIFTY THOUSAND AND 00/100 DOLLARS (\$50,000.00) and for such further relief as this Court deems just and necessary.

Respectfully submitted,

TAXMAN, POLLOCK, MURRAY, & BEKKERMAN, LLC

By: 
Jared Duke

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I.D. No.: 61090

LYLE RAINEY,

Plaintiff,

v.

**WAL-MART STORES, INC. d/b/a
SAM'S CLUB,**

Defendant.

No.

I, Jared Duke, state that this is a civil action seeking money damages in excess of FIFTY THOUSAND (\$50,000.00) DOLLARS.

Pursuant to 735 ILCS 5/1-109, the undersigned certifies that the foregoing Affidavit is true and correct based upon the personal knowledge of the undersigned.

By:


Jared M. Duke

6